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1/16/09

*In re Application of:*  
RAY, EDDIE F. III et al  
Serial No.: 10/766,504  
Filed: Jan. 27, 2004  
Docket: 03190.000100.  
Title: BONE GRAFTS

DECISION ON PETITION

This is a decision on the Petition for Suspension of Action received on Dec. 4, 2008, seeking to suspend action on the above-identified application for a period of six months. This petition is being considered pursuant to 37 CFR § 1.103(a). The petitioner has paid the requisite petition fee.

The petition is denied.

In the petition, petitioner alleged that the petition to suspend further action on the current application is to permit action by the PTO on Applicants' Request for Reexamination and for the PTO to make a consistent determination of patentability of the same or substantially the same claims to both parties. The reason for a six-month suspension of action is not convincing and could not justify a six-month delay in prosecution. The Office must balance the burden of timely examinations and needs of the public to know which claims it faces with the needs of applicants in pursuing claims which reflect the scope to which they are entitled. The petition fails to establish why suspension of action in the case is necessitated by a reexamination request in another patent. Accordingly, applicant has failed to establish good and sufficient reasons to delay the prosecution. The request is denied.

The application remains in active status and is being forwarded to the Supervisory Patent Examiner of Art Unit 3733 for immediate preparation of an Office action in response to the amendment filed on Dec. 4, 2008. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DENIED.

  
Donald T. Hajec, Director  
Technology Center 3700